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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,401	03/09/2004	Marc Radow	501120-014	5592
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Marc Radow 1900 Joy Lake Road Reno, NV 89511			EXAMINER GROSSO, HARRY A	
			ART UNIT 3781	PAPER NUMBER
			MAIL DATE 03/19/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/797,401

**Applicant(s)**

RADOW, MARC

**Examiner**

HARRY A. GROSSO

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7, 8, 10-23 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 and 29-33 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10-13 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Proficiency's Patent Drawing Review (PTO-544)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 1, 11 and 12 recite the limitation of "a recess portion having an interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle". The interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle are not described in the specification.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the raised center portion of the base having a height approximately half the height of the outer wall portion (claims 11, 14 and 19) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-5, 7, 8 and 10-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 11 and 12 recite the limitation of "a recess portion having an interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle". The interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle are not described in the specification and it is unclear what is intended. Claims 2-5, 7, 8, 10 and 13 depend on claim 1.
5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-5, 7, 8, 10, and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 11 and 12 recite the limitation of "a recess portion having an interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle". The interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle are not described in the specification and it is unclear what is intended. Claims 2-5, 7, 8, 10 and 13 depend on claim 1.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5, 7, 8, 10, 13 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phalin in view of Lyu et al (Lyu), both of record.

9. Regarding claim 1, Phalin discloses a receptacle (Figure 4) with a recessed portion (54) having an interior area extending toward the center of the receptacle and an exterior area extending away from the center of the receptacle, as best understood, and a substantially flat surface extending from the exterior area to the interior area; a raised portion having a convex shape (55); and an outer wall (52) extending upwardly to form a rim (51). Phalin does not teach the dimensions of the raised portion. Lyu discloses a

receptacle having a recessed portion (Figures 1-2, column 2, lines 24-32), a convex raised portion (14) and a vertical outer wall (12). Lyu discloses the raised portion in the bottom (Figure 1) extending a first distance to an upper position (H2) that would be about one-half inch for a receptacle having a diameter of about 3.5 inches and increases to other heights less than two inches as the receptacle diameter increases. The raised portion is substantially circular and has a diameter of about 3.0 inches for the receptacle having a diameter of about 3.5 inches and increases as the receptacle diameter increases. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the raised portion having the dimensions as disclosed by Lyu in the receptacle disclosed by Phalin since Phalin does not teach the dimensions of the raised portion and it is known in the art to use the dimensions taught by Lyu for the raised portion. Phalin discloses the distance the outer wall extends upwardly is greater than the height of the recessed portion and the rim can form an opening with a maximum opening dimension greater than the height of the outer wall (column 1, lines 49-56).

10. Regarding claim 2, Phalin discloses the raised portion is a continuous closed surface.

11. Regarding claim 3, Phalin discloses the raised portion is substantially dome shaped.

12. Regarding claims 4 and 5, Lyu discloses the first distance from the recessed portion to a top-most portion can be approximately three-quarter inch for a receptacle with a diameter of about 4.0 inches.

13. Regarding claim 7, Phalin discloses the outer wall portion extends substantially vertically.
14. Regarding claim 8, Phalin discloses a receptacle having a substantially circular outer wall portion with diameters up to 4.25 inches (column 1, lines 49—56).
15. Regarding claim 10, in the receptacle of Phalin as modified by Lyu, the second distance is at least twice the first distance.
16. Regarding claim 13, Phalin discloses the raised portion and the outer wall portion extend substantially in a circle.
17. Regarding claim 21, Phalin discloses a receptacle with a wall extending upwardly from a bottom portion to a rim (51) having an upper surface, and a bottom wall having a relatively flat section (54) adjacent the receptacle wall and a raised portion (55) interior to the flat section. Phalin does not teach the dimensions of the raised portion. Lyu discloses a receptacle having a bottom wall (Figures 1-2, column 2, lines 24-32), a raised portion (14) and a receptacle wall (12). Lyu discloses the raised portion in the bottom (Figure 1) extending a first distance to an upper position (H2) that would be about one-half inch for a receptacle having a diameter of about 3.5 inches and increases to other heights less than two inches as the receptacle diameter increases. The raised portion is substantially circular and has a diameter of about 3.0 inches for the receptacle having a diameter of about 3.5 inches and increases as the receptacle diameter increases. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the raised portion having the dimensions as disclosed by Lyu in the receptacle disclosed by Phalin since Phalin

does not teach the dimensions of the raised portion and it is known in the art to use the dimensions taught by Lyu for the raised portion. Phalin discloses the distance across the opening is greater than 4 inches and the opening size is greater than distance from the bottom to the rim (column 1, lines 49-56).

18. Regarding claim 22, Lyu discloses the upper position of the raised portion can be approximately three-quarter inch for a receptacle with a diameter of about 4.0 inches, which would be about one-half inch, "about" being a broad term allowing some variation.

19. Regarding claim 23, Phalin discloses the raised portion has a curvature over substantially the entire surface of the raised portion.

***Allowable Subject Matter***

20. Claims 14-20 and 29-33 are allowed.

***Response to Arguments***

21. Applicant's prior arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY A. GROSSO whose telephone number is (571)272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harry A. Grosso  
/Harry A. Grosso/  
Examiner, Art Unit 3781

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